

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6685 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

VANRAJSINH NATHUBHA ZALA

Versus

STATE OF GUJARAT

Appearance:

M/S THAKKAR ASSOC. for Petitioner
Shri Kamal Mehta, learned A.G.P.

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 05/11/96

ORAL JUDGEMENT

By way of this Special Civil Application under Article 226 of the Constitution of India the petitioner has challenged the order of detention dated 27.6.1996 passed by the District Magistrate, Surendranagar in exercise of powers under the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as "the PASA Act").

2. It is alleged that the case against the petitioner being C.R. No.174/96 for the offences under the Bombay Prohibition Act, 1949 has been registered. Learned counsel relying on the decision of the Supreme Court in Piyush Kantilal Mehta v. Commissioner of

Police, Ahmedabad City and another, A.I.R. 1989 SC 491 submits that only on the basis of the said case, it cannot be said that the petitioner, as a bootlegger, has indulged in the activities which have adversely affected or likely to adversely affect the maintenance of public order. Shri Kamal Mehta, learned AGP submits that the petitioner was also earlier detained under the PASA Act. He further submits that the liquor worth of lakhs of rupees has been recovered from his possession. So far as the detention is concerned it is submitted by the learned counsel that on the representation made by the petitioner the State Government itself released the petitioner.

3. In view of this it cannot be said that the petitioner was earlier lawfully detained. Thus this material cannot be used against him. So far as registration of C.R. Case No.174/96 is concerned, it is stated that the challan in the said case has been filed and the petitioner has been enlarged on bail on certain conditions. There is no material to show that the activities of the petitioner, as a bootlegger, has in any way adversely affected or likely to affect adversely the maintenance of public order. Thus the impugned order of detention cannot be upheld.

4. In the result the Special Civil Application is allowed. The petitioner is directed to be released forthwith, if he is not required in any other case. Rule is made absolute.

-00o-
karim*